

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NOKIA CORPORATION and)	
NOKIA, INC.,)	
)	
Plaintiffs,)	
)	C.A. No. 05-16-JJF
v.)	
)	
INTERDIGITAL COMMUNICATIONS)	
CORPORATION and INTERDIGITAL)	DEMAND FOR JURY TRIAL
TECHNOLOGY CORPORATION,)	
)	
Defendants.)	

**DEFENDANTS' MOTION TO DISMISS PURSUANT TO FEDERAL RULES OF
CIVIL PROCEDURE 12(B)(1), 12(B)(6), AND 12(H)(3)**

OF COUNSEL:

D. Dudley Oldham
Robert S. Harrell
Richard S. Zembek
FULBRIGHT & JAWORSKI L.L.P.
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
Telephone: (713) 651-5151
Telecopier: (713) 651-5246
doldham@fulbright.com
rharrell@fulbright.com
rzembek@fulbright.com

Dan D. Davison
FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201-2784
Telephone: (214) 855-8000
Telecopier: (214) 855-8200
ddavison@fulbright.com

Richard L. Horwitz (#2246)
David E. Moore (#3983)
POTTER ANDERSON & CORROON LLP
Hercules Plaza, 6th Floor
1313 N. Market Street
P. O. Box 951
Wilmington, Delaware 19801
Telephone: (302) 984-6000
rhhorwitz@potteranderson.com
dmoore@potteranderson.com

*Attorneys for Defendants Interdigital
Communications Corporation and
Interdigital Technology Corporation*

Dated: March 15, 2005

Defendants InterDigital Communications Corporation and InterDigital Technology Corporation (collectively, “InterDigital”) – prior to filing their answer and discovery – file this Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), and 12(h)(3). In support thereof, InterDigital respectfully shows this Court as follows:

1. On January 12, 2005, Plaintiffs Nokia Corporation and Nokia, Inc. (collectively, “Nokia”) filed their Original Complaint in this case, seeking: (1) a declaratory judgment of noninfringement and invalidity as to certain patents held by InterDigital; and (2) relief under Section 43 of the Lanham Act (15 U.S.C. § 1125(a)).

2. InterDigital – prior to filing its answer and discovery – now files this motion to dismiss any and all of Nokia’s claims against InterDigital pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), and 12(h)(3). The grounds for InterDigital’s motion to dismiss are fully set forth in the Opening Brief in Support of Defendants’ Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), and 12(h)(3) and supporting materials filed contemporaneously with this motion

3. InterDigital further requests that this Court award InterDigital its reasonable attorney’s fees and costs in this litigation and reserves the right to submit separate and additional briefing in support of its entitlement to such fees and costs.

CONCLUSION

For the reasons stated above, Defendants InterDigital Communications Corporation and InterDigital Technology Corporation (“InterDigital”) respectfully request that this Court: (1) grant InterDigital’s Motion to Dismiss; and (2) dismiss any and all of Plaintiffs Nokia Corporation and Nokia, Inc.’s claims against InterDigital.

If this Court grants such relief in full or in part, InterDigital further requests that this Court – pursuant to 35 U.S.C. § 285, 15 U.S.C. § 1117(a), 28 U.S.C. § 1919, Federal Rule of Civil Procedure 54(d), District of Delaware Local Rule 54.1(a)(1), and any other applicable law – award InterDigital its reasonable attorney’s fees and costs in this litigation. InterDigital expressly reserves the right to submit separate and additional briefing in support of its entitlement to such attorney’s fees and costs.

InterDigital further requests all other relief to which it may be entitled.

Respectfully submitted,

OF COUNSEL:

D. Dudley Oldham
Robert S. Harrell
Richard S. Zembek
FULBRIGHT & JAWORSKI L.L.P.
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
Telephone: (713) 651-5151
Telecopier: (713) 651-5246
doldham@fulbright.com
rharrell@fulbright.com
rzembek@fulbright.com


Dan D. Davison
FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201-2784
Telephone: (214) 855-8000
Telecopier: (214) 855-8200
ddavison@fulbright.com

Dated: March 15, 2005

673970

POTTER ANDERSON & CORROON LLP

By:


Richard L. Horwitz (#2246)
David E. Moore (#3983)
Hercules Plaza, 6th Floor
1313 N. Market Street
P. O. Box 951
Wilmington, Delaware 19801
Telephone: (302) 984-6000
rhorwitz@potteranderson.com
dmoore@potteranderson.com

*Attorneys for Defendants Interdigital
Communications Corporation and
Interdigital Technology Corporation*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**


CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on March 15, 2005, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

Jack B. Blumenfeld
Julia Heaney
Morris, Nichols, Arsht & Tunnell
1201 N. Market Street
P. O. Box 1347
Wilmington, DE 19899-1347

I hereby certify that on March 15, 2005, I have Federal Expressed the documents to the following non-registered participants:

Peter Kontio
Patrick J. Flinn
Gardner S. Culpepper
Keith E. Broyles
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, GA 30309-3424

By: 
Richard L. Horwitz
David E. Moore
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, Delaware 19899-0951
(302) 984-6000
rhorwitz@potteranderson.com
dmoore@potteranderson.com